

AMENDED IN SENATE AUGUST 6, 2012

AMENDED IN SENATE JUNE 20, 2012

**SENATE BILL**

**No. 1383**

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**Introduced by Senator Hernandez**

February 24, 2012

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An act to add and repeal Section ~~37420.5~~ 37350.3 of the Government Code, relating to local government water utilities, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1383, as amended, Hernandez. Local government: sales of specific water utility property.

Existing law provides ~~a procedure that is generally applicable for a city to sell its real property that a city may purchase, lease, receive, hold, and enjoy real and personal property, and control and dispose of it for the common benefit.~~ Other existing law establishes specific procedures for sale of public utility property owned by a municipal corporation, with special provisions that are applicable to the sale of property of a water utility.

This bill would, ~~notwithstanding any other law, until January 1, 2014,~~ authorize the City of El Monte in the County of Los Angeles, which owns and operates a public utility for furnishing water service, to sell or transfer all or any part of the utility ~~pursuant to the procedures that are generally applicable to a sale of real property by a city, as prescribed,~~ if certain requirements are met.

*This bill would make legislative findings and declarations as to the necessity of a special statute for the City of El Monte.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 37420.5 is added to the Government~~  
2     ~~Code, to read:~~  
3     ~~37420.5.— (a) Notwithstanding any other law, the City of El~~  
4     ~~Monte in the County of Los Angeles, which owns and operates a~~  
5     ~~public utility for furnishing water service, may sell or transfer all~~  
6     ~~or any part of the public utility pursuant to this article or Article~~  
7     ~~1 (commencing with Section 37350), subject to the following~~  
8     ~~requirements:~~  
9     ~~(1) The legislative body of the City of El Monte shall not sell~~  
10    ~~the water utility property for less than its fair market value,~~  
11    ~~determined in accordance with the Public Water System Investment~~  
12    ~~and Consolidation Act of 1997 (Chapter 2.5 (commencing with~~  
13    ~~Section 2718) of Part 2 of Division 1 of the Public Utilities Code).~~  
14    ~~(2) The entity acquiring the City of El Monte’s water utility~~  
15    ~~property shall be a water corporation, as defined in Section 241~~  
16    ~~of the Public Utilities Code, that, at the time of the sale or transfer,~~  
17    ~~is authorized by the Public Utilities Commission to provide water~~  
18    ~~service to at least 50 percent of the area within the corporate limits~~  
19    ~~of the city, and maintains its corporate headquarters within the~~  
20    ~~corporate limits of the city.~~  
21    ~~(3) Upon acquiring the City of El Monte’s water system, the~~  
22    ~~acquiring water corporation assumes the obligation to provide~~  
23    ~~water service to all persons in the area formerly served through~~  
24    ~~the water system being sold by the city on the same terms and~~  
25    ~~conditions that the Public Utilities Commission has found to be~~  
26    ~~just and reasonable for the acquiring water corporation’s other~~  
27    ~~customers in the city and that do not unlawfully discriminate~~  
28    ~~against the previous customers of the city’s water system.~~  
29    ~~(b) This section shall remain in effect only until January 1, 2014,~~  
30    ~~and as of that date is repealed, unless a later enacted statute, that~~  
31    ~~becomes operative on or before January 1, 2014, deletes or extends~~  
32    ~~the date on which it is repealed.~~  
33    ~~SECTION 1. Section 37350.3 is added to the Government Code,~~  
34    ~~to read:~~

1 37350.3. (a) Notwithstanding Article 2 (commencing with  
2 Section 10051) of Chapter 1 of Division 5 of the Public Utilities  
3 Code, the City of El Monte in the County of Los Angeles, which  
4 owns and operates a public utility for furnishing water service,  
5 may sell or transfer all or any part of the public utility pursuant  
6 to this article, subject to the following requirements:

7 (1) The legislative body of the City of El Monte shall not sell  
8 the water utility property for less than its fair market value,  
9 determined in accordance with the Public Water System Investment  
10 and Consolidation Act of 1997 (Chapter 2.5 (commencing with  
11 Section 2718) of Part 2 of Division 1 of the Public Utilities Code).

12 (2) If the entity that acquires the City of El Monte's water utility  
13 property is a water corporation, as defined in Section 241 of the  
14 Public Utilities Code, that at the time of sale or transfer is  
15 authorized by the Public Utilities Commission to provide water  
16 service within the corporate limits of the city, the acquiring water  
17 corporation must assume the obligation to provide water service  
18 to all persons in the area formerly served through the water system  
19 being sold by the city on the same terms and conditions that the  
20 Public Utilities Commission has found to be just and reasonable  
21 for the acquiring water corporation's other customers in the city  
22 and that do not unlawfully discriminate against the previous  
23 customers of the city's water system.

24 (b) This section shall remain in effect only until January 1, 2014,  
25 and as of that date is repealed, unless a later enacted statute, that  
26 becomes operative on or before January 1, 2014, deletes or extends  
27 the date on which it is repealed.

28 SEC. 2. The Legislature finds and declares that a special law  
29 is necessary and that a general law cannot be made applicable  
30 within the meaning of Section 16 of Article IV of the California  
31 Constitution because of unique circumstances applicable to the  
32 City of El Monte in the County of Los Angeles, which owns a  
33 water utility that the city's legislative body finds is no longer in  
34 the public interest to own and operate and desires to sell, but is  
35 unable to do so in a timely manner because statutes authorizing  
36 the sale of city property appear to conflict with one another,  
37 preventing the city from selling the water utility without an  
38 election. In order to enable the city in these special circumstances  
39 to timely complete a sale of property in the public interest, a statute  
40 of general applicability cannot be enacted within the meaning of

1 subdivision (b) of Section 16 of Article IV of the California  
2 Constitution, and therefore this special statute is necessary.

3 SEC. 3. This act is an urgency statute necessary for the  
4 immediate preservation of the public peace, health, or safety within  
5 the meaning of Article IV of the Constitution and shall go into  
6 immediate effect. The facts constituting the necessity are:

7 In order to provide the City of El Monte in the County of Los  
8 Angeles with the clear authority to sell a city-owned water utility  
9 while financial conditions are favorable to the city and the sale is  
10 in the public interest, it is necessary for this act to take effect  
11 immediately.